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OLC 67-0215

2 October 1967

MEMORANDUM FOR THE RECORD

SUBJECT: Legislative Matters

1. On this date, I met with Admiral Taylor and Colonel White for the weekly discussion of legislative business.

2. Delivered to the Deputy Director and Executive Director, Mr. Houston's memorandum of 2 October 1967 responding to Admiral Taylor's memorandum of 27 September 1967. These items were discussed. Colonel White stated he would discuss the one point of amending the CIA Act to increase consultant pay to \$100 with the Director.

3. Left with Colonel White the proposed letter for the Director's signature to the Comptroller General concerning disposition of financial records. I explained the background indicating that Messrs. Woodruff, Michaels and Kelleher indicated they believed they could get their Chairmen to sign the draft letter to the Comptroller General supporting the Director's request. I requested Colonel White to return the entire package to me so that I could get all signatures before the Director's letter went forward.

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4. Reviewed briefly my meeting with Representative Robert V. Denney responding to his written query for information on the [] case. No written response is necessary. I reported Denney fully understood our position and wished to be of help.

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5. Mentioned the [] case. Colonel White advised that he believed that Senator Symington had mentioned in a conversation with the Director Symington's interest in the case.

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6. Discussed S. 1035 briefly including the request by the House Post Office and Civil Service Committee to the Bureau of the Budget and other agencies for a report. It was suggested that possibly Roger Jones would be a good one in the Bureau to contact. Colonel White indicated he would look into this with his contacts. It was agreed that if we were requested for a report, we could simply attach the recent letter to our two House Subcommittees stating this was our position.

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8. I covered the queries that Admiral Taylor had on three entries in the 27 September Journal.

9. The Gross amendment to the Foreign Assistance Authorization Act was discussed including the fact that Mr. Houston ruled that we were not affected. I indicated this had been discussed with both Woodruff and Michaels. It was also mentioned that Mr. Houston was doing a memorandum on this.

10. I reviewed briefly the import of the current problems on the Hill involving the usual continuing resolution for appropriations. I indicated there would be some efforts within the Appropriations Committee to look at all departmental budgets with the view of specific cuts.

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JOHN S. WARNER
Legislative Counsel

cc: DDCI
Ex Dir/Compt
OLC Subject
OLC Chrono

OLC:JSW:mks

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2 OCT 1967

MEMORANDUM FOR: Deputy Director of Central Intelligence

SUBJECT: Proposed Agency Legislation to Revise the CIA Retirement Act of 1964 and the CIA Act of 1949

1. This is in response to your memorandum of 27 September providing additional comment on the proposed Agency legislation.

2. With regard to the actuarial implications in terms of money, where a widow's annuity is continued after remarriage, the Director of Personnel is now checking with the Civil Service Commission and the Department of State in a new attempt to forecast possible remarriage potential among survivor spouses covered under the CIA Act. When this information is received an attempt will be made to project a cost, if any, for the item. As for the discussion or argument set forth in the text that the wife has "earned" her annuity, this was the position taken by the Department of State in their original presentation before the Congress and has gained acceptance additionally from our earlier presentations before the House Committee. The question of need for support by a widow has been considered to be inherent in the "earned annuity" approach. It does seem worthwhile to stay with it.

3. With regard to Section 4 relating to termination of child annuity upon marriage of the child, the mere act of marriage as you indicate does not assure the capability of self-support. However, unless incapable of self-support, a child 18 years or over is not recognized as a dependent in Federal legislation for a variety of purposes including Income Tax, Social Security benefits, survivor annuity, etc. This is an almost uniformly applied policy. It is noted that the language in Section 4 actually is not restrictive of this policy, but makes an exception to it to reward

educational efforts, as has been done for Civil Service annuitants. We would be reaching beyond established policy not only in retirement acts, but others to continue the annuity after such an event. We do not have precedent nor do we feel we could justify being more liberal than we have been with regard to termination of the dependent child's annuity.

4. The language used to describe termination of annuities under Section 5 is founded in the language used for other retirement acts and has had a good history of usage and of interpretation by the General Accounting Office. This is a technical type of provision and deals for the most part only with the payroll problem of determining the dates for initiation or cessation of payments. The language "other terminating events" which you noted is not operative language in determining benefits under the act. The benefits themselves are determined wholly in other provisions.

5. With regard to Section 9 concerning advisory personnel and the National Security Act limitation on the rate of compensation payment to advisory personnel, I talked to Mr. Robert F. Keller, General Counsel to the Comptroller General, on Wednesday. Mr. Keller agreed that every other agency in Government had authority to exceed the \$50 rate set forth in the National Security Act, but is of the opinion that our general authority could not overcome such a specific limitation. (See attached memorandum of 27 September.) As originally presented to the Congress, the bill simply removed the \$50 limitation. The full Armed Services Committee, in their consideration, however, adopted the view that this would be hard to defend on the floor of the House and urged the \$100 limitation. In consequence, I feel the provision should remain in its present form, but that consideration be given to suggesting in our discussion before the Committee that the wording of the limitation be changed to provide for payment at the upper limit of the General Schedule, which at the present time is \$99, the daily rate of a G. S. 18. Such a provision would allow necessary increase in per diem payments to consultants as Federal salaries are advanced, without need for further amendment.

s/ Lawrence R. Houston

Lawrence R. Houston
General Counsel

Attachment

Distribution:

Orig & 1 - Addressee

1 - Ex/Dir-Compt

1 - D/Personnel

1 - OLC
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2 - OGC

Executive Registry

67-4547

06C67-1845

27 September 1967

MEMORANDUM FOR: General Counsel

SUBJECT : Comments on the Bill to Revise the
CIA Retirement Act of 1964 and the
CIA Act of 1949

1. Further to our conversations of the other day, I have some additional comment on subject legislation.


2. It seems to me that the argument on the deletion of the words "or re-marriage" from Section 3 is somewhat weak but I don't contest the proposed change. I would, however, raise two questions with regard to it. First, what are the actuarial implications in terms of money arising from this deletion? Second, why is not some wording that would delineate the conditions of need for support be preferable so as not to have to fall back on the rather vague argument that the wife has "earned" the annuity on the grounds that she is a necessary element in our personnel team? It seems to me that if one were to accept that argument, one would then be compelled to argue that we ought not to hire bachelors or single women.

3. With regard to Section 4, the language is rather carefully couched to convey the impression that the child's annuity is conditioned upon his presumed ability for self-support. This is reasonable. However, one of the terminating conditions in both the present CIA Retirement Act and the proposed changes thereto is the annuitant's marriage. I don't agree that the mere act of marriage necessarily presumes the capability of self-support. Further, this terminating provision is at variance with the very argument advanced for continuing the widow's annuity in case of her re-marriage since it could be argued that if she is a necessary element in the personnel team, the family as a whole is also, and the child is part of this entity.

4. Under Section 5 there are described provisions for termination of the annuity in the case of a retired participant "on the day death or any other terminating event occurs". It seems to me that this provision

could cause trouble unless "other terminating events" are defined. For example, death is a permanent terminating event whereas re-employment is a temporary terminating event that might be made permanent under some interpretations of this provision.

5. Lastly, you have already heard my arguments on the proposed revision to Section 5 of the Central Intelligence Act of 1949 and I have heard some of your counter-arguments. My uninformed opinion is that there is no bar to payment of such sums as the DCI may determine are appropriate (using Section 8 of the CIA Act) and that the Government would have no way to recover from the recipient sums in excess of \$50 a day as provided by the National Security Act of 1947 unless it (a) knew what such sums were, and (b) the recipient were otherwise receiving sums from the U.S. Government which the Government Accounting Office could withhold. Therefore, I feel we should inquire most carefully into our authorities on this point before requesting a change to the CIA Act. Finally, in this regard, I don't see why we should specify sums "not to exceed \$100 per day" simply because that is provided elsewhere in the law of the land. Obviously the reason the sum was changed from \$50 in one Act to \$100 in a later Act for other activities of the Government is that the going prices on good consultative assistants went up. Things being what they are, they are apt to go up again and \$100 may not be enough. Therefore, it would appear to me that some general wording that specifies the going rate under existing provisions of law for other activities of the Government be permitted.


Rufus L. Taylor
Vice Admiral, U. S. Navy
Deputy Director

cc: Executive Director-Comptroller

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JOURNAL

OFFICE OF LEGISLATIVE COUNSEL

Wednesday - 27 September 1967

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1. [] Made contact with Mr. [] and made arrangements for him to have a personnel interview with Mr. [] on Friday at 2:30 P. M.

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2. [] Talked with Mrs. Virginia Laird, Secretary to Senator Stuart Symington, and advised her of the Senator's expressed desire to see the Director next Monday, 2 October. I told her that at the moment the Director's schedule for Monday was fairly free, and that the Director would do everything to meet with the Senator at the Senator's convenience. Mrs. Laird said she would mention this to Senator Symington upon his arrival tomorrow.

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4. [] Met with Mr. Philip Kelleher, Counsel, House Armed Services Committee, and brought him up to date on current thinking in the Agency concerning the content of the Agency legislative package. Mr. Kelleher will hold further Committee action pending our determinations.

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5. [] Mr. David Segal, Soviet Desk of State Department, advised of the receipt of a referral from the office of Senator Robert Kennedy (D., N. Y.) concerning [] Mr. Segal is referring the matter to us for handling.

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7. [] Attempted to meet with Mr. Blandford, Chief Counsel, House Committee on Armed Services, to deliver the Director's letter to the Chairman. Mr. Blandford's schedule, however, kept him away from the office the entire day.

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8. [] At the referral of [] in the Office of Personnel, contacted Susan Mathews, in the office of Representative Robert N. Giaimo (D., Conn.), concerning the employment application of []. I read Miss Mathews excerpts from the Director of Personnel's letter of 25 September 1967 which Miss Mathews said would be helpful to the Congressman in meeting with [] in the district tomorrow. Apparently Giaimo's office is quite high on []. However, the fact that we did not have any suitable vacancy was not questioned. Personnel is preparing a close out letter to Congressman Giaimo.

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9. [] Met with Mr. Reddan, House Armed Services Special Investigations Subcommittee staff, confirming the Director's appearance on 9 October. The hour was changed from 9:30 to 10:00. I reviewed with him, in general, the topics to be covered and he had no problems with this.

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25X1 10. [] Talked with Jack Stempler, DOD, indicating that we had a coordinated letter between GSA and ourselves which would be shown to Senator Russell Long or Mr. Hunter, of the Senator's staff. I also indicated that we had reached the decision that it would be best if the fact of the Agency involvement were made known. Mr. Stempler agreed with me and my request that he set up an appointment with the Senator's office and advise me.

25X1 11. [] Talked with Bill Woodruff, Senate Appropriations Committee staff, showing him the Gross amendment to the Foreign Service Authorization Act. Woodruff saw no practical way in which we could insert our interests in this matter in the legislation or the report. Woodruff felt we could well rationalize our situation as compensation for services rendered rather than assistance.

25X1 12. [] Talked with Al Westphal, House Foreign Affairs Committee staff, indicating that I had reviewed the Gross amendment with Bob Michaels and Bill Woodruff and between us we had come up with no good ideas regarding language in the report which Westphal is preparing to write. Westphal said he thought we would not and thanked me for advising him.

25X1 25X1A 13. [] Met with Senator Milton Young furnishing him with a copy of the briefing notes Mr. [] had prepared on the South Vietnamese elections. These were fully adequate for the Senator's purposes and he was most appreciative. The Senator also discussed with me his amendment to S.1035, removing the FBI's complete exemption and putting them in the partial exemption for CIA and NSA. He pointed out that Senator Edward Kennedy had been prepared to go on the floor to take away the complete FBI exemption on the merits, but apparently after some discussions in the Democratic Policy Committee, suggestions were made that the amendment offered by Senator Young would be a better step and would be better if offered by Senator Young.

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14. [redacted] Talked with Dorothy Fosdick, in the absence of Senator Henry M. Jackson, asking her to alert the Senator to the fact that [redacted]

I indicated that it was hoped there would be no problems in connection with his transfer of service records and similar administrative details [redacted]. We thought it appropriate that the Senator be alert that he was an employee for approximately 8 or 9 months. I did not discuss with her the type of duties or purposes.

JOHN S. WARNER
Legislative Counsel

cc:
Ex/Dir-Compt
DD/S
DD/I

Mr. Houston
Mr. Goodwin
OPPB
DD/S&T
SAO/DDP

SECRET

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SENDER WILL CHECK CLASSIFICATION			
UNCLASSIFIED	CONFIDENTIAL	SECRET	
CENTRAL INTELLIGENCE AGENCY OFFICIAL ROUTING SLIP			
TO	NAME AND ADDRESS	DATE	INITIALS
1	OLC - Mr. Warner		
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ACTION		DIRECT REPLY	PREPARE REPLY
APPROVAL		DISPATCH	RECOMMENDATION
COMMENT		FILE	RETURN
CONCURRENCE		INFORMATION	SIGNATURE
<p>Remarks: Please note DDCI's handwritten questions:</p> <p>"Item 1: I'd like to know the outcome of the [redacted] interview.</p> <p>"Item 2: What's the query?</p> <p>"Item 6: What are the risks? Disclosure by Long?"</p> <p>/s/ T</p> <p>Suggest you might like to answer these verbally.</p>			
FROM:		TO RETURN TO:	
EA/DDCI		[redacted]	
SS AND PHONE NO.		DATE	
UNCLASSIFIED		CONFIDENTIAL	SECRET

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CENTRAL INTELLIGENCE AGENCY OFFICIAL ROUTING SLIP			
TO	NAME AND ADDRESS	DATE	INITIALS
1	Mr. [] 7E12		
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ACTION		DIRECT REPLY	PREPARE REPLY
APPROVAL		DISPATCH	RECOMMENDATION
COMMENT		FILE	RETURN
CONCURRENCE		INFORMATION	SIGNATURE
Remarks: Item 1: I'd like to know the outcome of the interview. Item 2: What's the query? Item 6: What are the risks? Enclosure by []			
FOLD HERE TO RETURN TO SENDER			
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